

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
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ROBERT MERCER,

Plaintiff,

-v-

NEW YORK CITY HOUSING AUTHORITY,

Defendant.

22-cv-2271 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff Robert Mercer applies to the Court for the appointment of pro bono counsel. Dkt. No. 23. The application is denied without prejudice.

The Court has authority to request an attorney to represent a person who is unable to afford counsel. The relevant factors are set forth in *Hodge v. Police Officers*, 802 F.2d 58, 60–62 (2d Cir. 1986), *cert. denied*, 502 U.S. 986 (1991). The Court considers (1) whether plaintiff's position “seems likely to be of substance”; (2) whether the issues presented “might require substantial factual investigation” and “the indigent’s ability to investigate the crucial facts”; (3) “the plaintiff’s apparent ability to present the case” and “whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder”; (4) whether the “case’s factual issues turn on credibility”; (5) whether the legal issues presented are complex; and (6) “any special reason . . . why appointment of counsel would be more likely to lead to a just determination.” *Id.* at 60–62; *see Eichie v. Kuakazi*, 2022 WL 1517242, at *1 (S.D.N.Y. Apr. 27, 2022). As Mr. Mercer’s application reflects, “requests for pro bono counsel are rarely granted at the early stages of a case and usually not before the Court has issued a decision on the merits of the case.” Dkt. No. 23 at 1.

The case is at its early stages and the Court has not issued a decision on the merits. Mr. Mercer’s amended complaint was filed on July 27, 2022, Dkt. No. 7, and the Court has not ruled upon Defendant’s now fully submitted motion to dismiss, Dkt. No. 16. Accordingly, the request is denied without prejudice to it being renewed if the complaint survives the motion to dismiss.

SO ORDERED.

Dated: November 10, 2022
New York, New YorkLEWIS J. LIMAN
United States District Judge